

TELECOM REGULATORY AUTHORITY OF INDIA
NOTIFICATION

NEW DELHI, THE 19th AUGUST, 2016

TELECOM CONSUMERS PROTECTION (TENTH AMENDMENT) REGULATIONS, 2016
(6 OF 2016)

No. 301-7(2)/2015-F&EA ---- In exercise of the powers conferred by section 36, read with sub-clauses (i) and (v) of clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations further to amend the Telecom Consumers Protection Regulations, 2012 (2 of 2012), namely:-

1. (1) These regulations may be called the Telecom Consumers Protection (Tenth Amendment) Regulations, 2016;

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In regulation 2 of the Telecom Consumers Protection Regulations, 2012 (hereinafter referred to as the principal regulations), in clause (o), the words “for a period not exceeding ninety days” and provisos thereunder shall be omitted;

3. In regulation 4 of the principal regulations,----

(a) in sub-regulation (2), in clause (c), for sub-clause (iii), the following sub-clause shall be substituted, namely-

“(iii) clearly indicates the validity period of the voucher which shall not exceed ninety days:

Provided that the service provider may offer a voucher exclusively for data with validity period not exceeding three hundred sixty five days:

Provided further that the Special Tariff Voucher for SMS or data, having validity of more than seven days, may be renewed after obtaining the explicit consent of the consumer in accordance with the procedure specified in Schedule I and shall be deactivated, at any time, on the request of the consumer, in accordance with the procedure specified in Schedule II:

Provided also that no Special Tariff Voucher shall be renewed after its tariff has been revised.

(Sudhir Gupta)
Secretary

Note.1. - The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 6th January, 2012 vide notification No. 308-5/2011- QOS dated the 6th January, 2012.

Note.2. - The principal regulations were amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 11th January, 2012.

Note.3. - The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 21st February, 2012.

Note.4. - The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 7th March, 2012.

Note. 5. -The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 22nd October, 2012.

Note.6. - The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 27nd November, 2012.

Note.7. - The principal regulations were further amended vide Notification No.308-5/2011-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 21st February, 2013.

Note.8. - The principal regulations were further amended vide Notification No.308-3/2012-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 3rd December, 2013.

Note.9. - The principal regulations were further amended vide Notification No.308-1/2015-QOS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 7th August, 2015.

Note. 10. - The principal regulations were further amended vide Notification No. 301-23/2015-F&EA and published in the Gazette of India, Extraordinary, Part III, Section 4 dated the 16th October, 2015.

Note.11 - The Explanatory Memorandum explains the objects and reasons of the Telecom Consumers Protection (Tenth Amendment) Regulations, 2016 (6 of 2016)

Explanatory Memorandum

1. The policy and regulatory framework in the telecom sector focusing on competition, private participation and light-touch regulations has led to a near-universal access and affordability of mobile telephony in the country. However, it has, so far, not been as successful in spreading Internet access services in the country. The countries which are ahead of India in the growth curve on use of Internet have witnessed a remarkable boost in economic growth, expansion in opportunities and improvement in service delivery on account of increase in Internet access¹. International experience indicates that use of Internet serves as an enabler to accelerate growth by way of fueling efficiency and innovation. At the same time, it helps in achieving inclusiveness. The potential socio-economic benefits accruing out of the use of Internet seem to suggest that India can immensely benefit if the government and businesses make concerted efforts to ensure that Internet access services reach to one and all.

2. Most of the Internet users in the country consume data (Internet) services on their mobile handsets², as the market for wire line telecommunication services in India is much less developed. Even in the wireless segment, the situation of Internet subscription has not been very impressive. Only 31.35 crore wireless subscribers used Internet out of a total wireless subscriber base of 103.37 crore at the end of March, 2016. Thus the penetration of wireless Internet in the country was only 30% at the end of March, 2016. While the wireless data usage³ grew by about 58% in one year (from the Quarter ending March, 2015 to the quarter-ending March 2016), the wireless subscriber base, which used Internet⁴, grew by mere 16% in a year (from 31.03.2015 to 31.03.2016). It seems that the existing subscribers, having discovered the benefits of Internet usage, have increased their consumption of data (Internet), but the non-connected are not getting induced to access internet. Apparently, the challenges in improving wireless Internet penetration have been from both, the demand side as well as the supply side. The following reasons seem to be plaguing the adoption of wireless Internet in the country:
 - (i) Low level of literacy and even lower digital literacy
 - (ii) Low perceived utility of Internet

¹ As per a World Bank report, a 10% increase in broadband Internet penetration increases the per capita Gross Domestic Product (GDP) by 1.38% in the developing countries.

² About 94% subscribers who use Internet consume it on their mobile handsets (i.e. wirelessly).

³ The wireless data usage grew from 285431 Terabytes (TB) in Quarter ending March, 2015 to 451185 TB in quarter-ending March, 2016.

⁴ The subscriber base which used wireless Internet, has grown from 27.04 crore as on 31.03.2015 to 31.35 crore as on 31.03.2016.

- (iii) Lack of adequate Internet coverage
 - (iv) Non-affordability of data amongst marginal consumers
3. Undisputedly, non-affordability of data offerings is one of the major factors of poor uptake of Internet, particularly amongst the marginal consumers. In the recent past, the Authority, has received many complaints from the consumers stating that the 'special tariff voucher with only data benefits' (popularly known as data-packs) available in the market are unaffordable to them because most of such vouchers have a very short period of validity. As per the framework for tariff vouchers established by Telecom Regulatory Authority of India (hereinafter, referred to as, the Authority) through the Telecom Consumers Protection Regulations, 2012 (hereinafter, referred to as TCPR, 2012), the service providers can offer special tariff vouchers with a period of validity not exceeding 90 days.
 4. It is understood that many consumers, who have recently begun using wireless Internet (on their mobile handsets), consume much less data (Internet) services; therefore, a significant portion of the volume of data offered in the data-packs subscribed by them remains unutilized by the time expiry date of data-pack arrives. The unutilized data in the data-pack is forfeited upon expiry of the period of validity. As a result, the effective price per Megabyte of data to such consumers turns out to be much higher. Hence the recent consumer complaints regarding non-affordability of data-packs.
 5. Requests have been received in TRAI seeking longer validity for data-packs (i.e. Special Tariff Vouchers with only data benefits) apparently to address the concern of marginal consumers of wireless Internet.
 6. The Authority has examined the various aspects of the suggestion to have longer validity in respect of Special Tariff Vouchers providing only data. The question arises as to the maximum validity period that could be allowed for STVs that provide exclusive data. The set of new prepaid consumers on any service provider's network comprises of the following categories:
 - (i) First-time mobile consumers; and
 - (ii) Consumers who have migrated from some other service provider's network.
 7. Intuitively, a significant portion of both of the afore-mentioned categories of consumers are relatively more price sensitive than an average pre-paid consumer. The service providers devise strategies to serve such consumers through cheaper tariffs to ensure long-term loyalty. Nevertheless, such consumers keep looking for more attractive offers in the market. As a result, the churn-rate for such consumers is much higher than the churn-rate of average prepaid consumers and apparently the

average lifetime of a new prepaid mobile connection is in the range of six months to a year.

8. Keeping in view the above, it appears reasonable to keep the maximum period of validity for the “data only” STVs, which are intended to be offered to attract marginal consumers, first-time data users and price-sensitive consumers, as one year (365 days).
9. It is expected that allowing “data only” STVs to have validity up to 365 days, exclusively targeted to data usage, would provide more flexibility to the service providers to offer innovative data products. The consumers, who use less of data services than average and those, who are presently not using any data services are likely to be the primary target consumers of such longer validity STVs. If the service providers make available attractive products of this kind, many first-time data users would be induced to try consumption of data services as they may not be required to activate voucher frequently because of longer validity. This is likely to boost Internet penetration in the country and, in turn, would reap socio-economic benefits to the country.
10. The Authority proposes to allow Access Service Providers to allow an increase in validity up to 365 days (presently 90 days) for offering a voucher exclusively for data within the category of existing Special Tariff Voucher allowed through the TCPR, 2012. Thus an STV with “data only” benefits would be allowed to be offered with maximum one year validity instead of maximum 90 days presently. It is reiterated that such STVs providing “data only” benefits must satisfy all conditions of a STV as specified in TCPR, 2012 including that these shall not be offered in denominations of Rupees 10 or multiples thereof.
11. The draft regulation alongwith the Explanatory Memorandum was placed on TRAI website inviting comments of stakeholders. The stakeholders have overwhelmingly welcomed the proposal to allow longer validity for ‘data only’ STVs. The suggestions of one Telecom Service Provider that the operators should be allowed to offer the usage of certain apps/websites free to the users, so that such users can be on boarded as internet users was not found consistent with the TRAI regulations on differential pricing of data services. The enhancement in validity of ‘data only’ STVs up to 365 days has been allowed after due consideration of all related issues including the suggestions received from the stakeholders during the consultation process.
